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Antimonopoly in American Politics, 1945-2000

Daniel Scroop

Summary

Antimonopoly, meaning the exclusive or near-exclusive control of an industry or business by one or a very few businesses, played a relatively muted role in the history of the post-1945 era, certainly compared to some earlier periods in American history. However, the subject of antimonopoly is important because it sheds light on changing attitudes toward concentrated power, corporations, and the federal government in the United States after World War II.

Paradoxically, as antimonopoly declined as a grassroots force in American politics, the technical, expert-driven field of antitrust enjoyed a golden age. From the 1940s to the 1960s, antitrust operated on principles broadly in line with those that inspired its creation in the late-nineteenth and early twentieth century, acknowledging the special contribution small business owners made to US democratic culture. In these years, antimonopoly remained sufficiently potent as a political force to sustain the careers of national-level politicians such as congressmen Wright Patman and Estes Kefauver and to inform the opinions of Supreme Court justices such as Hugo Black and William O. Douglas. Antimonopoly and consumer politics overlapped in this period. From the mid-1960s onward, Ralph Nader repeatedly tapped antimonopoly ideas in his writings and consumer activism, skilfully exploiting popular anxieties about concentrated economic power. At the same time, as part of the United States' rise to global hegemony, officials in the federal government's Antitrust Division exported antitrust overseas, building it into the political, economic, and legal architecture of the post-war world.

Beginning in the 1940s, conservative lawyers and economists launched a counterattack against the conception of antitrust elaborated in the progressive era. By making consumer welfare—understood in terms of low prices and market efficiency—the determining factor in antitrust cases they made a major intellectual and political contribution to the rightward thrust of US politics in the

1970s and 1980s. Robert Bork's *The Antitrust Paradox*, published in 1978, popularized and signalled the ascendancy of this new approach.

In the 1980s and 1990s antimonopoly drifted to the margin of political debate. Fear of big government now loomed larger in US politics than the spectre of monopoly or of corporate domination. In the late-twentieth century, Americans, more often than not, directed their antipathy toward concentrated power in its public, rather than its private, forms. This fundamental shift in the political landscape accounts in large part for the overall decline of antimonopoly—a venerable American political tradition—in the period 1945-2000.

Keywords

Antimonopoly, antitrust, conservatism, consumer, corporations, government, politics, law

Antimonopoly in American History

Antimonopoly runs like a thread throughout the course of American history. In the founding era, Thomas Jefferson, James Madison, and John Adams attacked monopoly as a moral evil, as did Andrew Jackson in the 1820s and 1830s. Before the Civil War, antislavery campaigners, who resented the influence wielded by wealthy slave-owning elites, used antimonopoly language when campaigning against what they termed the Slave Power. Similarly, late-nineteenth and early twentieth-century progressives decried the Money Power, alarmed by the size and power of large corporations, and by the entangled relationships between those corporations, big banks, and other financial institutions. This long history shows that in the United States antimonopoly has functioned as a form of moral politics, a means of raising far-reaching questions about citizenship, community, and the proper relationship between democracy and capitalism.

Antimonopoly remained a feature of US political life in the post-war era but in this period became both less visible and less potent. After 1945—and especially after 1970—Americans, increasingly, viewed concentrated power in public form as a greater threat than concentrated private power. This shift in the locus of popular hostility to concentrated power—from big corporations to

big government—was a pivotal development in the political history of the twentieth-century United States.

Legacies of the New Deal and Second World War

After the Second World War, antimonopoly gradually receded as a political force. It proved no longer capable of mobilising large constituencies of support against concentrated private power. Popular opposition to big business ebbed in the 1940s and 1950s in recognition of the fact that the war effort, which required government-business cooperation on an unprecedented scale, had fundamentally changed the structure of the economy and profoundly refashioned social expectations. In a burgeoning mass consumer society, citizens, including veterans returning from war service, fixed their attention on enjoying the fruits of a culture of abundance underpinned by products made by large corporations. In this context, the problem of monopoly seemed more remote, more abstract, than was the case before the war, when the idea that corporate bigness and concentrated private power had caused the Great Depression, and contributed to its depth and duration, gained wide currency.¹

Even as popular engagement with the problem of monopoly faded, however, antitrust—the field of law concerned with policing the relationship between democracy and monopoly—experienced a golden age. From the 1940s to the 1960s antitrust flourished, operating on principles broadly consistent with its nineteenth-century origins: it aimed to promote competition and to foster a social and economic environment amenable not only to large enterprises but also to the “small dealers and worthy men” Supreme Court Justice Rufus Peckham had singled out as deserving special protection in the 1897 case, *United States v. Trans-Missouri Freight Association*.² Under the leadership of Chief Justice Earl Warren (1953-69), the US Supreme Court adopted an energetic approach to antitrust. In rulings such as *Brown Shoe Co. v. United States* (1962) and *FTC v. Proctor and Gamble* (1967) the Warren Court proved willing to prioritize the protection of small business over low prices for consumers.³

The biographies of the first two post-war presidents, Harry S. Truman and Dwight D. Eisenhower, show why the idea that “small dealers” deserved special treatment still resonated in the

post-war era. Both Truman and Eisenhower had strong personal connections to the world of small business ownership. In 1919, shortly after returning from war service, Truman opened a haberdashery in Kansas City. Following the 1921 recession the enterprise collapsed. Though he later came to accept the inevitability of big business domination of major industries such as steel, chemicals, electronics, and automobiles, Truman's chastening experience as a failed retailer gave him a lifelong affinity with small business owners.⁴ The same is true of Eisenhower, whose father, David Jacob Eisenhower, owned a general store in Hope, Kansas, in the 1880s. Like Truman's haberdashery, the store went bust. [Eisenhower's farewell address](#) as president, delivered by radio and on television in January 1961, communicated the cultural values President Eisenhower imbibed during his childhood and youth in Denison, Texas, and Abilene, Kansas. When Ike—the last president born in the nineteenth century—warned of the dangers of a “military-industrial complex” he expressed the fears of a generation formed before 1920, when most Americans lived either on farms or in small towns.⁵

If cultural values rooted in late-nineteenth- and early twentieth-century rural and small town America influenced post-war antimonopoly politics, so too did the political legacies bequeathed by the New Deal. In the late 1930s Franklin D. Roosevelt launched a major antitrust drive, responding to concerns that giant corporations dominated the US economy to an excessive and dangerous degree. This led to a sweeping investigation of monopoly under the auspices of the Temporary National Economic Committee (TNEC).⁶ President Roosevelt made plain his determination to make antitrust part of the post-war political and economic order in his January 11, 1944 State of the Union address, in which he proposed that the “political rights” laid out in the 1791 Bill of Rights be augmented by a second Bill of Rights designed to promote the security and prosperity of US citizens “regardless of station, race, or creed.”⁷ Explaining that the emergence during the nineteenth and early twentieth century of a large-scale “industrial economy” had altered the nation fundamentally, Roosevelt enumerated eight “economic truths” which he presented as “goals of human happiness and well-being” for the new post-war world.⁸ Among them was the “right of every businessman, large and small, to trade in an atmosphere of freedom from unfair competition and domination by

monopolies at home and abroad.”⁹ **[Insert audio clip 1. Franklin D. Roosevelt’s 1944 State of the Union address.]**

When Truman assumed the presidency he promised to codify Roosevelt’s capacious vision of a new economic constitutional order. In a September 6, 1945 message to Congress he repeated verbatim his predecessor’s eight “economic truths,” pledging to give small businesses special protection even through the war reconversion period.¹⁰ Conservative opposition in Congress ensured, however, that Truman’s efforts to convert Roosevelt’s ambitious post-war vision—including its antitrust component—into legislative form at home floundered. Republican gains in the 1946 midterm elections stymied Truman’s domestic agenda, but a quite different story unfolded overseas: in the 1940s the Antitrust Division of the Department of Justice exported antitrust across the globe. So successful was this enterprise that by the year 2000 antitrust had become a global phenomenon and a fact of life for major corporations no matter where in the world they operated.¹¹ Antitrust, which began its life as a uniquely American product, had become by the end of the millennium a major factor in late-twentieth-century battles over state sovereignty and the politics of globalization. In 2000 around half of the countries signed up to the World Trade Organization (WTO) possessed functioning national antitrust legal systems.¹²

The origins of this extraordinary global development can be traced to the Antitrust Division of the Department of Justice’s aggressive pursuit of international cartels during and after the Second World War. American plans drawn up for the post-war occupation of Germany and Japan restricted cartels and took a dim view of big business, implicitly making a connection between tolerance of cartels and authoritarian rule.¹³ In this hostile judicial and political environment, many international cartels shut down entirely. The occupying authorities in Germany and Japan carried out a program of disbanding and liquidating large companies more comprehensive than anything ever tried in the United States.¹⁴ In modified form, the US model of antitrust exported to western Europe in the 1940s took root and flourished. As Wyatt Wells has shown, it thrived because it formed part of a broader program of economic liberalization, and because it was supported by leading European statesmen such as Jean Monnet, who understood the American antitrust tradition well.¹⁵ In contrast, Japan, with

its lack of raw materials and limited markets for export, took a different path. On winning back its sovereignty in 1953, Japan discarded most of the antitrust provisions imposed upon it during the war. It returned thereafter to a more restrictive, and cartel-friendly, economic regime.¹⁶

Antimonopoly and Small Business Advocacy

From the 1940s to the 1970s critics of monopoly in the judicial and legislative branches of government fought hard both to promote antitrust and to shield small business from the perceived threat posed by giant corporations. On the US Supreme Court two Roosevelt appointees, Hugo Black and William O. Douglas, proved especially hostile to monopoly and sympathetic to antitrust. As an Alabama congressman during the Great Depression, Black, who served on the Supreme Court from 1937 to 1971, campaigned against chain stores on the grounds that they threatened the livelihoods of independent merchants. On the bench, Black invariably took a hard line on corporate concentration.¹⁷ Douglas, whose Supreme Court career spanned the period from 1939 to 1975, held the view—elaborated most famously by Louis D. Brandeis—that corporate size itself represented a danger to democracy. Like Black (and Brandeis), Douglas believed that antitrust laws such as the 1890 Sherman Act and the 1914 Clayton Act had been designed to eliminate substantial concentrations of economic power and that small business should be protected even if that protection raised prices for consumers.¹⁸

It was in the legislative branch of government, however, that antimonopoly contributed most to post-war US politics. Wright Patman's (D-TX) career shows how critics of monopoly worked through congressional committees to shape legislation and influence public debate; Estes Kefauver's (D-TN) demonstrates that in the early post-war years antimonopoly—as a distinct and highly malleable political language—could propel a politician into the national spotlight and keep them there for a sustained period.

Patman entered Congress in 1928 and quickly established himself as a friend of small business and foe of monopoly.¹⁹ In the late twenties and early thirties he led the anti-chain store movement in Congress, proposing a punitive national anti-chain store tax, and sponsoring the 1935 Robinson-Patman Act, a law designed to protect small retailers which was drawn up with direct

assistance from the National Conference of Independent Businessmen.²⁰ In the 1940s he championed various forms of affirmative action for small business, striving to ensure that small dealers won military contracts and secured government loans.²¹ He held his congressional seat until his death in March 1976 by which time he had mentored many junior politicians with an interest in antitrust and small business affairs. Toward the end of his career he won the admiration of consumer champion Ralph Nader, who shared Patman's low opinion of the Federal Reserve, his interest in consumer credit and credit unions, his suspicion of corporate bigness, and his doubts about the democratic accountability of big banks, insurance companies, and other large financial institutions. In the late 1960s Patman and Nader joined forces to campaign against Delaware's incorporation laws.²²

Patman operated largely behind the scenes as one of a group of legislators who worked the halls and committee rooms of Congress to press their antimonopoly agenda before, during, and after the Second World War, Emanuel Celler, Joseph C. Mahoney and Paul Douglas among them. Estes Kefauver also used congressional committees to pursue antitrust issues but at the same he quite ingeniously deployed an antimonopoly mode of politics to engage and arouse the public, building a national profile by attacking concentrated power in various forms. His career illuminates the possibilities and potential of antimonopoly in post-war politics, underscoring its flexibility as a political style.

In the 1950s and early 1960s, Kefauver, who desperately wanted to be president, mixed criticism of monopoly in conventional economic form with assaults on other, non-economic forms of unaccountable, concentrated power. He pressed hard for more stringent antitrust enforcement: in 1950, supported by the Truman administration, he helped secure the passage of the Celler-Kefauver Act. This law revised and tightened Section 7 of the Clayton Act, strengthening regulation of corporate mergers with the particular aim of preventing companies from evading antitrust law by buying up company assets.²³ But Kefauver knew that he could not reach the White House by pursuing anti-merger legislation alone. In order to fulfil his presidential ambitions he needed to find an issue that complemented his antimonopoly style while also grabbing the public's attention. He found that issue in the specter of organized crime, orchestrated, he claimed, by a shadowy yet all-powerful mafia.²⁴

Time magazine called Kefauver's 1950-51 crime hearings, carried out under the auspices of the Senate Judiciary Committee, "the Biggest Show on Earth."²⁵ More people tuned in for the televised crime hearings than watched the 1950 World Series.²⁶ Throughout the sensational proceedings Kefauver framed the problem of organized crime in antimonopoly terms: he presented himself as a lone crusader against concentrated power, battling not just mafia bosses but also the big city machines with whom, he alleged, they colluded.²⁷ Like the moralistic early twentieth-century progressives who flayed the "Vice Trust" prostitution racket, Kefauver used antimonopoly ideas to attack criminal behaviour.²⁸ Indeed the final report of the crime investigation placed the problem of monopoly at the heart of its analysis, stating that "the key to successful gang operation is monopoly of illicit enterprises, for monopoly guarantees huge profits," and that "monopoly is the key to big money in criminal activity."²⁹ The hearings made him a serious contender for the Democratic Party's presidential nomination: in 1952 he defeated Harry S. Truman in the New Hampshire primary, winning 12 of the 15 primaries he contested in that electoral season; in 1956 he won a remarkable victory against Adlai Stevenson in the Minnesota primary before securing his party's vice presidential nomination. He placed antimonopoly at the centre of both campaigns, promising in 1952 to protect "political democracy" from the deleterious effects of the "concentration of economic power," and arguing in 1956 that a government of "big bankers and miscellaneous other millionaires" could not be trusted to run the country.³⁰

After Eisenhower's crushing victory in the 1956 presidential election, Kefauver continued his fight against monopoly in the Senate. He won control of the Senate Subcommittee on Antitrust and Monopoly in 1957 and until his death in 1963 used it to attack the size and dominance of big corporations. He did so under the guise of an inquiry into administered prices, an economic concept referring to prices set and held artificially over time, which was developed during the Great Depression by the economist Gardiner Means. Kefauver, however, never accepted Means's view that large corporations were "inevitable and indispensable."³¹ Rather, he believed that administered prices were a function of monopoly and corporate bigness and that large units should be broken up. He criticized another pro-bigness liberal, John Kenneth Galbraith, on these same grounds, arguing that economic concentration across a range of major US industries limited consumer choice and

compromised democracy.³² In this way Kefauver's hearings revealed divisions among liberals over how to approach the problem of large-scale capitalism's relationship with US democratic culture.

A notable feature of Kefauver's political and economic thought is that he saw no conflict between opposition to corporate bigness, support for "small dealers," and consumer advocacy. In fact between 1957 and 1963, as his subcommittee investigated every major industry in the United States, looking for evidence of collusion, excessive concentration, and price-fixing, he fought at the same time to persuade Congress to establish a federal Department of Consumers.³³ Taking issue with Galbraith, he argued that organized labour could not check the power of big business in the absence of effective consumer representation.³⁴ For Kefauver, as for many other congressmen who shared his antipathy to monopoly and faith in antitrust, antimonopoly and consumer politics did not clash. Kefauver joined forces with congressmen such as Philip Hart, Warren Magnuson, Edmund Muskie, Gaylord Nelson and William Proxmire in pursuing antitrust and consumer politics in tandem.³⁵

Ralph Nader, Antimonopoly, and Consumer Politics

During the 1960s and 1970s, popular attitudes to concentrated power began to shift so that antipathy toward big government increasingly superseded antipathy to big corporations as the predominant expression of Americans' fear of concentrated power. For the remainder of the twentieth century, this change in the political landscape substantially reduced antimonopoly's force and viability. Indeed Ronald Reagan twice won the presidency in the 1980s promising to reduce the size and power of the federal government. In doing so he took advantage of a popular suspicion of concentrated public power that he and other conservative politicians had carefully cultivated. In his first inaugural address, delivered on January 20, 1981, Reagan declared: "government is not the solution to our problem; government is the problem."³⁶ Although this simplistic statement masked the complexity of the American people's relationship with the central state, and of their understanding of the proper role and functions of the federal government, it tapped into powerful feelings of hostility toward bigness in governmental form.

From the 1970s, a new generation of corporate-friendly Democrats, relaxed about bigness and comfortable with large-scale capitalism, moved to acknowledge widespread popular distrust of

the size of the federal government, distancing the Democratic Party from its antimonopoly past. In 1996 a Democratic president, Bill Clinton, proclaimed in his State of the Union address that “the era of big government is over.”³⁷ In the 1990s, New Democrats such as Clinton and his vice president Al Gore, Jr. paid little heed to antitrust, let alone antimonopoly. In fact the 1992 and 1996 Clinton-Gore campaigns were the first Democratic Party presidential campaigns in the twentieth century based on platforms with no antitrust plank. Gore’s contributions in those campaigns bore little resemblance to those made by his father, Al Gore Sr. (D-TN), in the 1950s and 1960s, when he frequently joined Estes Kefauver’s antimonopoly crusades, lending him his support in the Senate. At the turn of the millennium, attacks on antimonopoly occupied a marginal position in US politics. In contrast, despite dissenting voices in the consumer, environmental, and anti-globalization movements, a broad consensus adhered to the notion that government, rather than corporations, had grown too large and too powerful.

One prominent critic of monopoly merits special attention here because of the role he played in fashioning new, unconventional ways of critiquing corporate bigness in the late-twentieth century—the consumer advocate Ralph Nader. It is an irony of Nader’s career that he should be so well known for one his least successful campaigns: the 2000 presidential bid in which the less than 2 percent of votes he won in Florida influenced, perhaps even directly, the outcome of the one of the closest election results in US history, a result ultimately determined in George W. Bush’s favour by the Supreme Court.³⁸ But the 2000 campaign is also significant for highlighting just how hostile the political climate had become for a critic of large-scale capitalism such as Nader. Running on the Green Party ticket, Nader hammered antimonopoly themes throughout the 2000 campaign, explicitly linking himself to the legacy of the nineteenth-century Populists, but his message never resonated with more than a small portion of the electorate.³⁹ Only after the 2009 global financial crisis, which prompted the brief flowering of the Occupy Movement and then led to the emergence of Elizabeth Warren (D-MA) and Bernie Sanders (Ind-VT) as major national figures, did the general political climate become more congenial to opponents of concentrated economic power.

Nader is not conventionally understood as an antimonopoly politician, but his preoccupation with the problem of concentrated power in economic form has been a constant theme across the fifty-year

span of his public life. Nader's early writings on automobile safety identified the bigness of corporations such as General Motors as particularly troublesome. The automobile "industry's biggest safeguard is its very bigness and power," he wrote in a 1963 essay for *The Nation*.⁴⁰ His sensational assault on General Motors, *Unsafe at Any Speed*, published in 1965, took aim at the biggest of the "Big Three" automobile manufacturers. On the surface it merely drew attention to some problems in automobile design and their safety ramifications but it also raised fundamental questions about democracy's relationship to large-scale capitalism. Nader's muckraking classic depicted General Motors as an unaccountable "giant" or "goliath," a malevolent entity representing concentrated economic power in monstrous form.⁴¹ *Unsafe at Any Speed* launched Nader's career as a consumer advocate but, more than that, it established him as the most prominent and effective critic of monopoly operating in the last three decades of the twentieth century. **[Insert figure 1. Figure 1. Ralph Nader in 1975. By the mid-seventies, consumer advocate Nader had established himself as the most popular and high-profile critic of big corporations in the United States. Photographer Thomas J. O'Halloran.]**

The fact that Nader forged his career without being elected to any office, working instead through the media, as well as through a host of advocacy, lobbying, and investigatory groups of his own devising, testifies both to his entrepreneurial ability and to how far from the political mainstream antimonopoly had drifted by the end of the twentieth century.⁴² Much of the intellectual and political work responsible for the antimonopoly's drift from the political mainstream in the last decades of the twentieth was carried out, largely hidden from public view, by a cluster of lawyers and economists based at the University of Chicago in the 1940s and 1950s. In time, their labours, which began to blossom and bear fruit politically in the 1970s and 1980s, transformed how lawyers and economists understood monopoly. By the end of the twentieth century they had succeeded in killing off the late-nineteenth- and early twentieth-century conception of antitrust—a conception cherished by many liberals and progressives—as means of preserving a democratic order rooted in competition among small businesses.

The Chicago School and the Transformation of Antitrust

In the immediate aftermath of the Second World War, the University of Chicago became a major hub for a form of pro-market thought which came to be known as neoliberalism. In this particular historical context, neoliberalism—a useful but notoriously unstable and contested term—involved the notion that, in contrast to classical liberalism, the conditions for the success of a free market economy needed to be constructed through positive political action.⁴³ Indeed in the 1940s and 1950s the Chicago School cohered more completely around this political commitment, rooted in the desire to develop a form of liberalism sufficiently robust to fend off the challenge of left-wing totalitarianism, than around any economic theory or abstraction.⁴⁴ As Angus Burgin has shown, mid-twentieth century neoliberals held a range of views and often disagreed among themselves.⁴⁵ Nevertheless, antitrust—and more broadly the relationship between monopoly and democracy—formed an indispensable part of the neoliberal attempt to promote pro-market ideas.

One of the leading figures in the early history of the Chicago School, Henry C. Simons, took the classically liberal view that monopoly was inimical to democracy. He believed that monopoly had helped bring about the Great Depression and opposed concentrated power “in all its forms: gigantic corporations, trade associations,” and “trade-unions.”⁴⁶ Soon, however, Simons’ classical view of monopoly was supplanted by an alternative pro-market perspective as relaxed about concentrated private power as it was hostile to concentrated public power. Seeking to counter left-wing arguments that monopoly control of the economy was best remedied through state ownership not free market competition, the Austrian-born economist and philosopher Friedrich Hayek established first the Free Market Study group (1946-1952) then the Antitrust Project (1953-1957) to re-examine the monopoly question.⁴⁷ The result, by the early 1950s, was a more or less complete *volte face*, a renunciation of Simons’ classical liberalism by this group of influential pro-market thinkers, and a corresponding insistence that since competition tended to destroy monopoly, economists, lawyers, and policymakers should adopt a tolerant view of both monopoly and big corporations.⁴⁸

In the 1950s, the notion that the forces of competition corroded monopoly and that large corporations did not pose a threat to the workings of a free market economy was still a fringe

position. But like many other views associated with the Chicago School, it gradually gained traction, thanks in part to skilled communicators such as Milton Friedman whose books and television appearances did so much through the second half of the twentieth century to disseminate neoliberal ideas to the public.⁴⁹ But the key figure in popularising the Chicago School's ideas on monopoly and antitrust was not Friedman but Robert Bork.

Bork studied law as an undergraduate and postgraduate at the University of Chicago, gaining his J.D. in 1953. He then stayed on as a contributor to the Antitrust Project, inspired by Hayek and led by Milton Friedman's brother-in-law, Aaron Director, another leading figure in the Chicago School. In 1954 Bork published an influential article on vertical integration; he then left academia to work for a corporate law firm.⁵⁰ He moved back into academia in 1962, however, securing a position at Yale Law School, where, in the 1970s, he wrote *The Antitrust Paradox: A Policy at War with Itself*, the book that did more than any other to popularize the emerging neoliberal consensus on antitrust.⁵¹

The Antitrust Paradox advanced the Chicago School idea that consumer welfare, understood in terms of the allocative efficiency of markets and their capacity to deliver low prices, should be the sole factor in determining the outcome of antitrust cases. "The judge must not weigh against consumer welfare any other goal," Bork wrote, "such as the supposed benefits of preserving small business against superior efficiency."⁵² Bork's book made a serious, scholarly intervention in a major field of American law and has been used to support the reasoning of numerous Supreme Court cases, but it adopted a strikingly polemical, even alarmist, tone. In one passage, for instance, Bork claimed that "modern antitrust has so decayed that the policy is no longer intellectually respectable."⁵³

A comparison between the first (1978) and second (1993) editions of *The Antitrust Paradox* illustrates the success of the Chicago School's politically-charged refashioning of antitrust. In his 1993 preface, Bork apologized for the angry tone of his first edition. He had been too prickly and pessimistic, he explained, because he had not realized at the time that he and his allies had already won the battle to revolutionize antitrust.⁵⁴ With the "primitive egalitarianism" of the Warren Court consigned to the past, he wrote, he could now see that his work was done.⁵⁵ Lawyers and judges now used the insights of the Chicago School in antitrust cases, he explained, deploying specified modes

of economic analysis to test and refine their understanding of the antitrust laws in relation to consumer welfare, understood in terms of low prices and market efficiency. Bork also claimed—quite disingenuously—that the sea change in antitrust he helped to bring about was not political, but rather purely an intellectual advance.⁵⁶ In fact, the redefinition of antitrust, originating in the Chicago School in the late 1940s and early 1950s, was a pivotal time in the development of modern conservatism. By dismantling the antitrust tradition—or at least by transforming it in ways that served their political ends—Robert Bork and his allies at the University of Chicago and elsewhere made a significant contribution to the rightward shift in American politics which accelerated in the 1970s and held firm for the rest of the twentieth century.⁵⁷

Antimonopoly and Popular Hostility to Concentrated Power

In an important sense, the history of antimonopoly in the post-war United States is one of decline. Richard Hofstadter made this point in 1964 when, in an influential essay, he argued that antitrust had ceased to excite the passions of the American people and had instead become the sole preserve of experts.⁵⁸ Large-scale capitalism won broad acceptance after the Second World War as Americans, for the most part, embraced a consumer-oriented political and social order. As Estes Kefauver and Ralph Nader showed in their contrasting ways, it remained possible to forge a significant, national-level political career by exploiting popular hostility to corporate bigness, but no grassroots antimonopoly movement emerged comparable to late-nineteenth- and early twentieth-century Populism or even to Huey Long's New Deal-era Share Our Wealth movement.⁵⁹

But in US history, antimonopoly operated—as it operates still—as a form of moral politics: it gives the American people an outlet for their deep-seated aversion to concentrated power. In this sense it is a subset of a broader political phenomenon, or impulse, rather than a discrete tradition. After all, opposition to concentrated power can take many forms. It can direct itself toward various targets, not only those associated with economic monopoly. In light of this fact it may be that in the second half of the twentieth century the American propensity to oppose concentrated power did not so much decline as change form. Between 1945 and 2000, and for reasons future historians will want to explore in greater depth, popular hostility to concentrated power expressed itself predominantly in

terms of antipathy toward concentrated public rather than private power. It took aim at bureaucrats rather than bankers, at Washington rather than Wall Street, and at big government rather than large corporations.

Discussion of the Literature

Two recently published volumes of essays provide useful introductions to current scholarship at the intersection of US political and business history: Richard R. John and Kim Phillips-Fein, eds, *Capital Gains: Business and Politics in Twentieth-Century America* (Philadelphia, PA: University of Pennsylvania Press, 2016) and Kim Phillips-Fein and Julian E. Zelizer, eds, *What's Good for Business: Business and American Politics since World War II* (New York: Oxford University Press, 2012). Richard Hofstadter's characteristically subtle essay, "What Happened to the Antitrust Movement? Notes on the Evolution of an American Creed," remains essential as a starting point for any student of antitrust in post-war American politics. It was first published in Earl F. Cheit, *The Business Establishment* (New York: John Wiley & Sons, 1964) and appears in revised form in Hofstadter's seminal essay collection, *The Paranoid Style in American Politics and Other Essays* (New York: Alfred A. Knopf, 1965).

For a study of the political economy in the 1930s laying bare the unresolved issues bequeathed to post-war policymakers by the New Deal, see Ellis W. Hawley's magisterial *The New Deal and the Problem of Monopoly: A Study in Economic Ambivalence* (Princeton, NJ: Princeton University Press, 1966). In *The End of Reform: New Deal Liberalism in Recession and War* (New York: Vintage Books, 1996), Alan Brinkley argues that liberal policymakers shifted away from a focus on structural economic reform toward a Keynesian, and more consumer-oriented, model of economic management that embraced large-scale capitalism, marking a decisive turn away from the antimonopoly tradition. Elizabeth Cohen's *A Consumers' Republic: The Politics of Consumption in Postwar America* (New York: Alfred A. Knopf, 2003) and Robert Collins's *More: The Politics of Economic Growth in Postwar America* (New York: Oxford University Press, 2000) chart the emergence and far-reaching implications of an economic order powered by mass consumption and geared for growth.

Jonathan Bean's *Beyond the Broker State: Federal Policies Toward Small Business, 1936-1961* (Chapel Hill, NC: University of North Carolina Press, 1996) is an invaluable study of small business policy. It contains illuminating portraits of individual antimonopoly politicians and explains the relationship between antimonopoly and small business advocacy in Congress. See Nancy Beck Young, *Wright Patman: Populism, Liberalism, and the American Dream* (Dallas, TX: Southern Methodist University Press, 2000) for an insightful biography of an inveterate foe of corporate monopoly whose long congressional career bridged the pre- and post-war periods. On President Eisenhower's commitment to antitrust as a necessary tool of market-based economic management, and his handling of the Truman administration's antitrust legacy, see chapter 5 of William M. McClenahan, Jr., and William H. Becker, *Eisenhower and the Cold War Economy* (Baltimore, MD: The Johns Hopkins University Press, 2011), 152-82. For a fine case study of how the Cold War shaped debates about monopoly and regulation in the Truman era see Dominique A. Tobbell, "'Who's Winning the Human Race?' Cold War as Pharmaceutical Political Strategy," *Journal of the History of Medicine and Allied Sciences*, Vol. 64, No. 4 (October 2009), 429-73.

Estes Kefauver's brand of antimonopoly politics is explored in Daniel Scroop, "[A Faded Passion? Estes Kefauver and the Senate Subcommittee on Antitrust and Monopoly](#)," *Business and Economic History On-Line* 5 (2007). The best study of the Kefauver crime investigation is William Howard Moore, *The Kefauver Committee and the Politics of Crime, 1950-1952* (Columbia, MO: University of Missouri Press, 1974). For an insightful exploration of how the language and iconography of antitrust can transcend economic boundaries and shape political and social debate, see Mara Keire, "The Vice Trust: A Reinterpretation of the White Slavery Scare in the United States, 1907-1917," *Journal of Social History* Vol. 35, No. 1 (Fall, 2001), 5-41.

Ralph Nader's views on monopoly and corporate bigness have yet to attract sustained scholarly attention but for a helpful sketch with important insights on Nader's early life and career see Daniel Horowitz, *The Anxieties of Affluence: Critiques of American Consumer Culture, 1939-1979* (Amherst, MA: University of Massachusetts Press, 2004). Nader's debt to populism and his antimonopoly credentials are not currently well understood. For an effort to erode and complicate the notion that there was a clean break between pre-war producer politics and post-war consumer politics

of the kind Nader pursued see Daniel Scroop, "The Anti-Chain Store Movement and the Politics of Consumption," *American Quarterly*, Vol. 60, No. 4 (December 2008), 925-949.

For the role of antitrust in fashioning post-war international politics consult Wyatt Wells, *Antitrust and the Formation of the Postwar World* (New York: Columbia University Press, 2002) and Tony Freyer, *Antitrust and Global Capitalism, 1930-2004* (Cambridge, UK: Cambridge University Press, 2006). These studies exemplify the historiographical shift from Hofstadter's nation-centred narrative, which was based on the assumption that antimonopoly and antitrust are best understood as products of a specifically American politics of reform, to the recent focus on more comparative and transnational and global approaches to the topic.

For a probing study of regulatory politics which frequently touches on the intellectual and political history of antitrust see Thomas McCraw, *Prophets of Regulation* (Cambridge, MA: Harvard University Press, 1984). For an introduction to the Chicago School's approach to antitrust see Herbert Hovenkamp, *Federal Antitrust Policy: The Law of Competition and its Practice* (St. Paul, MN: Thomson/West, 2005) and Richard A. Posner, "The Chicago School of Antitrust Analysis," *University of Pennsylvania Law Review* 127 (1979). For a nuanced account of neoliberal thought illuminating the contested and variegated nature of market-centered thinking in the post-war era, see Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Great Depression* (Cambridge, MA: Harvard University Press, 2015). Philip Mirowski and Dieter Plehwe's edited collection, *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective* (Cambridge, MA: Harvard University Press, 2009) is also helpful on the Chicago School's evolution, development, and relationship to broader political and ideological trends, especially chapter 4 by Robin Van Horn and Philip Mirowski on the birth of neoliberalism and chapter 6 by Robin Van Horn on monopoly and the corporation.

Primary Sources

For newspaper and magazine coverage of antimonopoly and antitrust issues begin with the *New York Times*, *Washington Post*, *Wall Street Journal*, *Business Week*, *Newsweek*, *Time*, the *New Republic*, and *The Nation*. Legal opinions, too, form an important source of information for students of

antimonopoly and antitrust. For Supreme Court opinions use a searchable database such as [FindLaw](#). In addition the [presidential libraries](#) of all presidents from Franklin D. Roosevelt to Bill Clinton provide material pertinent to monopoly and antitrust. To search the public papers of presidents online see [The American Presidency Project](#).

Among manuscript collections, the [Wendell Berge Papers](#) at the Manuscript Division of the Library of Congress, Washington, DC, offer an especially valuable selection of clippings on antitrust up to 1950, including material from regional papers.

Many prominent post-war political figures left papers touching on antimonopoly. Among the most important are:

[Hugo Black](#), Manuscript Division, Library of Congress, Washington, DC.

[Emanuel Celler](#), Manuscript Division, Library of Congress, Washington, DC.

[William O. Douglas](#), Manuscript Division, Library of Congress, Washington, DC.

[Philip Hart](#), Bentley Historical Library, University of Michigan, Ann Arbor, MI.

[Estes Kefauver](#), Modern Political Archives (Special Collections), University of Tennessee, Knoxville.

[Warren Magnuson](#), University of Washington Libraries Special Collections, Seattle, WA.

[Edmund Muskie](#), Bates College, Lewiston, Maine.

[Gaylord Nelson](#), Wisconsin Historical Society, Madison, Wisconsin.

[Joseph C. O'Mahoney](#), American Heritage Center at the University of Wyoming in Laramie.

[Wright Patman](#), Lyndon Baines Johnson presidential library, Austin, Texas.

[William Proxmire](#), Wisconsin Historical Society, Madison, Wisconsin.

For the Chicago School consult the [papers of Robert H. Bork](#).

[Aaron Director](#).

[Milton Friedman](#): Hoover Institution, Stanford University, CA.

[Henry C. Simons](#): University of Chicago Library, Chicago, IL.

The [Hagley Museum and Library in Wilmington](#), Delaware contains a number of collections offering insight into business and industry views of the changing context of antitrust after 1945. See especially the DuPont Records and the papers of the National Association of Manufacturers (NAM). And for primary material on the occupations of Germany and Japan, the key collections are (for Germany) the Records of the Office of Military Government and the Records of the Office of the High Commissioner and (for Japan) the Records of the Supreme Command for the Allied Powers, all of which collections can be found in the [National Archives](#) in Washington, DC.

Printed material can helpfully supplement manuscript collections. For example, see the posthumously published Estes Kefauver (with the assistance of Irene Till), *In a Few Hands: Monopoly Power in America* (New York: Pantheon Books, 1965) which summarizes the findings of the 1957-1963 Senate Subcommittee on Antitrust and Monopoly. As yet there are no Ralph Nader papers. Nader's preoccupation with antimonopoly politics can be traced in his voluminous published

writings, beginning with *Unsafe at Any Speed: The Designed-in Dangers of the American Automobile* (New York: Grossman Publishers, 1965). For a useful selection of his writings from the 1950s to the 1990s see *The Ralph Nader Reader* (New York: Seven Stories Press, 2000). Books on monopoly and corporate bigness either written by Nader or produced by the study groups he established in the 1970s include Nader and Mark J. Green, *Corporate Power in America: Ralph Nader's Conference on Corporate Accountability* (Washington, DC: Conference on Corporate Accountability, 1971), Ralph Nader, Mark J. Green, and Joel Seligman, *Taming the Giant Corporation* (New York: Pantheon, 1976), Nader and William Taylor, *The Big Boys: Power and Position in American Business* (New York: Pantheon, 1986) Mark J. Green, *The Monopoly Makers: Ralph Nader's Study Group Report on Regulation and Competition* (New York: Grossman, 1973), and Mark J. Green, Beverey C. Moore, and Bruce Wasserstein, *The Closed Enterprise System: Ralph Nader's Study Group Report on Antitrust Enforcement* (New York: Grossman, 1972).

Further Reading

Jonathan Bean, *Beyond the Broker State: Federal Policies Toward Small Business, 1936-1961* (Chapel Hill: University of North Carolina Press, 1996)

Robert Bork, *The Antitrust Paradox: A Policy at War with Itself* (New York: Basic Books, 1978)

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Angus Burgin, *The Great Persuasion: Reinventing Free Markets since the Depression* (Cambridge: Harvard University Press, 2012)

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Ellis Hawley, *The New Deal and the Problem of Monopoly* (Princeton: Princeton University Press, 1966)

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Philip Morowski and Dieter Plehwe, eds, *The Road from Mont Pèlerin: The Making of the Neoliberal Thought Collective* (Cambridge: Harvard University Press, 2009)

Wyatt Wells, *Antitrust and the Formation of the Postwar World* (New York: Columbia University Press, 2002)

Notes

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- ¹ On the politics of mass consumption see Elizabeth Cohen, *A Consumers' Republic: The Politics of Mass Consumption in Postwar America* (New York: Alfred A. Knopf, 2003). For an account of liberalism's reconciliation with large-scale capitalism during the 1940s see Alan Brinkley, *The End of Reform: New Deal Liberalism in Depression and War* (New York: Alfred A. Knopf, 1995).
- ² *United States v. Trans-Missouri Freight Association*, 166 U.S. 290 (1897).
- ³ *Brown Shoe Co. v. United States* 370 U.S. 294 (1962); *FTC v. Proctor & Gamble* 386 U.S. 568 (1967); Herbert Hovenkamp, *The Antitrust Enterprise: Principle and Execution* (Cambridge: Harvard University Press, 2005), 1.
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- ⁵ Alonzo L. Hamby, *Man of the People: A Life of Harry S. Truman* (New York: Oxford University Press, 1995), 94-100.
- ⁶ Dwight D. Eisenhower, "Farewell Radio and Television Address to the American People," January 17, 1961 <http://www.presidency.ucsb.edu/ws/index.php?pid=12359&st=&st1=>
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- ¹⁴ Wells, 208-9.
- ¹⁵ Wells, 210, 212.
- ¹⁶ Wells, 173.
- ¹⁷ Wells, 137-86.
- ¹⁸ See for example *U.S. v. Von's Grocery Company* 384 U.S. 270 (1966).
- ¹⁹ For a critical assessment of Douglas's prolific record on antitrust see C. Paul Rogers III, "The Antitrust Legacy of William O. Douglas," 56 *Cleveland State Law Review* (2008).
- ²⁰ Nancy Beck Young, *Wright Patman: Populism, Liberalism, and the American Dream* (Dallas, TX: Southern Methodist University Press, 2000), 29-72.
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- ³⁰ The Kefauver Committee Report on Organized Crime (New York: Didier), 126, 151.
- ³¹ Estes Kefauver, "A Prosperous America for All," Series I, Box 76, Bibliographical Material, Folder 3, Estes Kefauver papers, University of Tennessee, p. 20, 21; Gorman, *Kefauver*, 271.
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- ⁴³ On the complex history of neoliberalism and free market thought since the 1930s see Angus Burgin, *The Great Persuasion* (Cambridge: Harvard University Press, 2012). For interwar disputes over neoliberalism see Ben Jackson, "At the Origins of Neoliberalism: The Free Economy and the Strong State, 1930-1947," *Historical Journal* 53, no. 1 (2010): 129-51. For a helpful account of ways in which usage of the term neoliberalism diverged from its deployment in present-day debates see Talor Boas and Jordan Gans-Morse, "Neoliberalism: From a New Liberal Philosophy to Anti-Liberal Slogan," *Studies in Comparative International Development* 44, no. 2 (2009): 137-61.
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- ⁴⁵ Burgin, *Great Persuasion*.
- ⁴⁶ Henry C. Simons, *Economic Policy for a Free Society* (Chicago: University of Chicago Press, 1948), 43.
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- ⁴⁹ Burgin, *Great Persuasion*, 152-86.
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- ⁵⁴ Bork, *Antitrust Paradox*, ix-x.
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- ⁵⁶ Bork, *Antitrust Paradox*, xiv.
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